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OCT 31 2016
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2016 OCT 28 AM 10:03

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BY C. Potuzak
DEPUTY

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

STATE OF MONTANA,

Plaintiff,

v.

BOONE BLOCK,

Defendant.

Cause No. BDC-2016- 467

**STATE'S MOTION FOR LEAVE TO
FILE INFORMATION AND
SUPPORTING AFFIDAVIT**

STATE OF MONTANA)
 :ss.
County of Lewis and Clark)

MARY E. COCHENOUR, Assistant Attorney General for the State of Montana, moves the Court for leave to file an Information charging the Defendant, Boone Block, with committing in Lewis and Clark County, Montana, Theft (Attempt), by common scheme, a felony, as specified in Mont. Code Ann. §§ 45-6-301(5)(b), -301(8)(b)(i), 45-2-101(8) and 45-4-103, or, in the alternative, False Claim to a Public Agency, a felony, as specified in Mont. Code. Ann. § 45-7-210(1)(2)(b). Both offenses are more fully described in the State's Information.

Mary E. Cochenour, after first being sworn upon oath, deposes and says, based on information and belief, that investigative information developed and provided to her by John Komora, Agent for the Division of Criminal Investigation of the Montana Department of Justice (DCI), and Shane Shaw, Investigator for Montana State Fund, demonstrates probable cause to believe that the Defendant has committed the offense charged. The investigative information relied upon by affiant to support probable cause is as follows:

1. With some exceptions, every employer in Montana must provide workers' compensation insurance to compensate employees if he or she suffers an on-the-job injury or occupational disease. Mont. Code Ann. § 39-71-401. Montana State Fund (State Fund), located in Helena, Lewis and Clark County, Montana, is a state agency that operates as a nonprofit, independent public corporation established for the purpose of providing an option for employers to insure their liability for workers' compensation and occupational disease coverage.

2. If an employee is injured on the job, the employee has 30 days to give notice of the injury to either the employer or the employer's insurer, the State Fund. Mont. Code Ann. § 39-71-603. The injured worker is responsible for filing with the State Fund in Helena all reasonable information needed to determine compensability. Mont. Code Ann. § 39-71-604(1).

3. Once liability is accepted, the injured worker is entitled to, among other things, payment of medical bills reasonably related to the injury. A worker is also eligible for "temporary total disability benefits" (TTD) when the worker suffers a total loss of wages as a result of an injury, and until the worker reaches maximum healing, or until the worker has been released to return to the employment in which the worker was engaged at the time of the injury or to employment with similar physical requirements. Mont. Code Ann. § 39-71-701(1).

4. A person filing a worker's compensation claim, by signing the claim, affirms the information filed is true and correct to the best of that person's knowledge. Mont. Code Ann. § 39-71-316.

5. Montana State Fund Fraud Coordinator John Forsman referred to the DCI an allegation of Theft or False Claim to a Public Agency for investigation. Forsman alleged that the Defendant, Boone Block, had submitted a false claim to State Fund, stating that he had been injured at work when it was learned that he actually injured himself at a motorcycle track in Bozeman, Montana. State Fund provided DCI with a case file,

including policy notes, medical records related to the Defendant's workers' compensation claim, and an investigative report by State Fund Investigator Shane Shaw (Shaw).

6. DCI assigned Agent Komora to review the case file, and complete any additional investigation required. In reviewing the entire case file and conducting additional investigation, Agent Komora noted the following:

7. The Defendant filed a workers' compensation claim with State Fund claiming he suffered a work-related injury on February 26, 2016, while working for Montana Department of Transportation in Livingston, Montana. In the claim submitted to State Fund, the Defendant stated that he jumped off the back of a work truck and injured his right knee.

8. The Defendant's coworker, Robert Oakland, did not see the Defendant get injured at work and the Defendant did not tell Oakland on Friday, February 26, 2016, that he had been injured. The Defendant did mention to Oakland that he was going to ride his motorcycle on the weekend. Oakland stated he saw a motorcycle in the back of the Defendant's truck.

9. Late in the afternoon on the next day, Saturday, February 27, 2016, the Defendant called his supervisor, Larry Chapel, of the Montana Department of Transportation. The Defendant told Chapel that he had been injured at work the day before. Records show that the Defendant then sought medical attention at the emergency room in Livingston on Sunday, February 28, 2016, that he reported the injury to State Fund on Monday, February 29, 2016, and, then again sought medical attention on March 3, 2016. The Defendant reported to both doctors and to State Fund that he had injured his knee while jumping out of the back of the work truck on Friday, February 26, 2016.

10. Based on this information, State Fund accepted the claim and approved temporary total disability (TTD) wage loss benefits based on the doctor's conclusions that the Defendant was too injured to return to work due to his knee injury. State Fund

also began receiving medical bills related to the Defendant's workers' compensation claim and was prepared to pay for all of his medical bills related to the work-place injury. Based on the nature and extent of the injury, State Fund put over \$30,000 in reserve to pay for the Defendant's lost wages and medical treatment.

11. On March 2, 2016, however, State Fund received a tip on its fraud hotline. The caller stated that the Defendant had been riding his motorcycle on Saturday, February 27, 2016--the day after he claimed to have been injured at work.

12. Shaw contacted the Defendant on March 8, 2016, and asked him about the injury and whether he had been riding motorcycles on Saturday. The Defendant stated that he injured his knee on Friday at work and denied riding his motorcycle on Saturday, although when questioned further by Shaw, he did admit that he left his house Saturday to buy his girlfriend a new motorcycle.

13. Shaw interviewed Travis Rhinehart on March 9, 2016. Rhinehart is the treasurer for the Hyline Raceway, a motocross track in Bozeman, Montana. Rhinehart stated that Block purchased a membership for the raceway for \$550 on February 26, 2016, the day he claimed to have been injured at work. Shaw then interviewed Travis Burian, the owner of Yellowstone Motor Sports in Bozeman. Burian stated that the Defendant and Angela Duncan bought a Honda motorcycle on the morning of February 27, 2016. Burian stated at that time the Defendant did not appear to be injured in any way. Burian recalled that Duncan stated that she was not going to ride the motorcycle that day, only watch the Defendant ride.

14. Shaw also contacted Sheldon Haase, who was riding his motorcycle at the Hyline Raceway on Saturday, February 27, 2016. Haase stated that he saw a man arrive at the track in a pickup truck with two motorcycles in the back. The man was with a woman but the woman stayed inside the truck and did not ride the motorcycles. Haase stated that after being at the track a little while, the man approached him and stated that he had just injured his knee. Haase stated that the man appeared to be in significant pain

and could barely stand on his leg. Haase helped the man load the motorcycle into the truck. When the couple left, the woman drove the truck.

15. On March 10, 2016, the Defendant called State Fund and withdrew his workers' compensation claim because of Shaw's investigation.

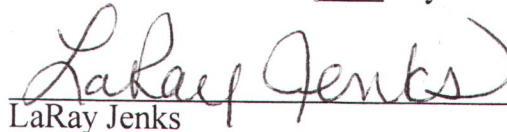
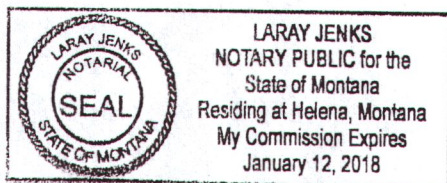
16. Based on the above information, affiant believes probable cause exists that the Defendant has committed the alleged offenses of Theft (Attempt) of workers' compensation benefits in excess of \$1,500, a felony, by common scheme, and/or False Claim to a Public Agency with a value of the claim in excess of \$1,500, a felony. Accordingly, the affiant moves the Court for leave to file the requested Information.

Dated this 25th day of October, 2016.



MARY COCHENOUR
Assistant Attorney General

SUBSCRIBED AND SWORN TO before me this 25th day of October, 2016.


LaRay Jenks

MARY E. COCHENOUR
Assistant Attorney General
P.O. Box 201401
Helena, MT 59620-1401
Telephone: (406) 444-2026

COUNSEL FOR STATE

FILED *October 28, 2016*
NANCY SWEENEY, Clerk of District Court
By *M. Schnecko* Deputy

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

STATE OF MONTANA, Plaintiff, v. BOONE BLOCK, Defendant.	Cause No. <u>B</u> DC-2016- <u>467</u> INFORMATION DEEANN COONEY PRESIDING JUDGE
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Mary E. Cochenour, Assistant Attorney General, alleges that the Defendant, Boone Block, has committed the following felony offenses in Lewis and Clark County, Montana: **COUNT I: THEFT (ATTEMPTED)**, a felony, as specified in Mont. Code Ann. §§ 45-6-301(5)(b), -301(8)(b)(i), 45-2-101(8) and 45-4-103. **A person convicted of felony theft is subject to a term of imprisonment in the state prison not to exceed 10 years, or to a fine not to exceed \$50,000, or to both such imprisonment and fine.**

The facts constituting the offense are as follows:

On or about and in between February 29, 2016 and March 11, 2016, the Defendant purposely or knowingly attempted to obtain or exert unauthorized control over workers' compensation benefits paid by Montana State Fund in excess of \$1,500, by means of deception or other fraudulent action by submitting a false report to Montana State Fund, located in Lewis and Clark County, claiming that he had suffered an on-the-job injury while working for the Department of Transportation, when he injured himself while riding a motorcycle on his days off from work and not during the course of his employment. Based

on the Defendant's false report, Montana State Fund accepted the Defendant's claim and Montana State Fund began the process of paying medical and wage loss benefits in excess of \$1,500. The claim was cut off only after the Defendant withdrew his workers' compensation insurance claim after he learned that an investigation into his false report had commenced.

OR, IN THE ALTERNATIVE:

COUNT II: FALSE CLAIM TO A PUBLIC AGENCY, a felony, as specified in Mont. Code Ann. § 45-7-210(1),(2)(b). **A person convicted of felony false claim to a public agency is subject to a term of imprisonment in the state prison not to exceed 10 years or to a fine not to exceed \$10,000, or to both such imprisonment and fine.**

The facts constituting the offense are as follows:


On or about and in between February 29, 2016 and March 11, 2016, the Defendant knowingly presented for payment, for allowance, or for the purpose of concealing, avoiding, or decreasing an obligation to pay, a false or fraudulent claim or writing to a public agency, specifically Montana State Fund, which is authorized to pay valid claims presented to it. The value of the false claim submitted to State Fund by the Defendant was in excess of \$1,500, including medical bills and temporary total disability benefits that would have been paid based on the Defendant's false report to the state agency, Montana State Fund.

A list of the possible witnesses for the State now known to the prosecution is as follows (complete contact information will be provided with discovery):

1. Agent John Komora, Division of Criminal Investigation, 2225 11th Ave., Helena, MT 59601;
2. Investigator Shane Shaw, Montana State Fund, 855 Front Street, Helena, MT 59604;
3. Travis Burian, Bozeman, Montana;
4. Roger Chandler, Clyde Park, MT;
5. Larry Chapel, Livingston, MT;
6. Angela Duncan, Clyde Park, MT;
7. Sheldon Haase, Bozeman, MT;
8. Nick Haggerty, Livingston, MT;
9. Monty Holiday, Wilsall, MT;

10. Gina Keltz, Montana State Fund, 855 Front Street, Helena, MT 59604;
11. Beverly McLealand, Clyde Park, MT;
12. Dr. Timothy O'Brien, Bozeman, MT;
13. David Parisi, Livingston, MT;
14. Travis Rhinehart, Bozeman, MT;
15. Dan Skattum, Livingston, MT;
16. Kelley Strietzel, Helena, MT;
17. Dr. Allan Supak, Livingston, MT;
18. Mike Thusty, Gallatin Gateway, MT, and;
19. Verizon Wireless, Custodian of Records.

Dated this 25th day of October, 2016.



MARY E. COCHÉNOUR
Assistant Attorney General

FILED October 28
BY NANCY SWEENEY, Clerk of District Court
M SCHNECKLOTH Deputy

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

STATE OF MONTANA, Plaintiff, v. BOONE BLOCK, Defendant.	Cause No. <u>BDC 2016-467</u> ORDER GRANTING STATE'S MOTION FOR LEAVE TO FILE INFORMATION
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Based on the State's Motion for Leave to File Information and Supporting Affidavit, the Court finds probable cause to believe the above-named Defendant has committed the alleged offense of Theft (Attempt), by common scheme, a felony, as specified in Mont. Code Ann. §§ 45-6-301(5)(b), -301(8)(b)(i), 45-2-101(8) and 45-4-103, or, in the alternative, False Claim to a Public Agency, a felony, as specified in Mont. Code. Ann. § 45-7-210(1)(2)(b).

Accordingly, IT IS ORDERED that the State's motion for leave to file an Information is granted.

Dated this 28 day of OCTOBER, 2016.

DEEANN COONEY

DISTRICT JUDGE

FILED October 28, 2016
NANCY SWEENEY, Clerk of District Court
By M SCHNECKLOTH Deputy

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

STATE OF MONTANA, Plaintiff, v. BOONE BLOCK, Defendant.	Cause No. <u>BDC 2016-467</u> SUMMONS DEEANN COONEY PRESIDING JUDGE
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THE STATE OF MONTANA TO: BOONE BLOCK
P.O. Box 116
Clyde Park, MT 59018

An Information has been filed against you in District Court, alleging that you committed, in Lewis and Clark County, the offense of Theft (Attempt), by common scheme, a felony, as specified in Mont. Code Ann. §§ 45-6-301(5)(b), -301(8)(b)(i), 45-2-101(8) and 45-4-103, or, in the alternative, False Claim to a Public Agency, a felony, as specified in Mont. Code. Ann. § 45-7-210(1)(2)(b). The maximum punishment for this offense is a term of imprisonment in the state prison not to exceed 10 years, or to a fine not to exceed \$50,000, or to both such imprisonment and fine. Or in the alternative, a term of imprisonment in the state prison not to exceed 10 years or to a fine not to exceed \$10,000, or to both such imprisonment and fine.

You are hereby summoned to appear before this Court on the 16 day of November 2016, at the hour of 8:30 (a.m./p.m.), for an initial appearance, at the Lewis and Clark County Courthouse in Helena, Montana. **You are further directed to present yourself at the Lewis and Clark County Sheriff's Department, immediately prior to or following this hearing,**

for the purpose of being fingerprinted, photographed, and booked. Failure to personally appear before this Court at said date and time, with or without counsel, will result in the issuance of a warrant for your arrest and may result in the suspension of your driver's license.

Dated this 28 day of October, 2016.

DEEANN COONEY

DISTRICT COURT JUDGE